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10/772,763

02/04/2004

Scott Wadsworth

WADS101

5705

7590

08/09/2006

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EXAMINER

NEAL, TIMOTHY J

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/772,763

Applicant(s)

WADSWORTH ET AL.

Examiner

Timothy J. Neal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/12/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Malecki et al. (US 5,855,590) in view of Moose (US 2,840,081).

Malecki discloses:

**Claims 1 and 10:** a device having a pair of jaws (Fig 28A), said jaws further pivotally connected to a base portion (Fig 28A), said base portion configured for slideable engagement along a holding rail said holding rail and an articulating device configured to manipulate said jaws, so as to engage and stretch said endless loop (Fig 28A).

**Claims 3:** said base portion is configured to interact with said holding rail and with said jaws so as to open said jaws when said holding rail is advanced along said holding rail (Fig 28A).

**Claims 4 and 14:** said articulating device comprise a pair of spacer bars pivotally connected to said jaws, and pivotally connected to a portion of said holding rail, said spacer bars configured to alternatively open and close said jaws when said base plate is alternatively moved along said holding rail (Fig 28A).

**Claims 8 and 19:** said holding rail is made of a material which resists deformation (Fig 28A).

**Claim 12:** said base portion is configured to interact with said holding rail and with said jaws so as to open said jaws when said holding rail is advanced along said holding rail by said articulating device (Fig 28A).

**Claim 15:** said holding rail is pivotally connected to a pair of spacer bars, said spacer bars also pivotally connected to said jaws, whereby advancing said base plate along said holding rail causes said jaws to open a distance determined by the lengths of said spacer bars (Fig 28A).

**Claims 2, 5-7, 9, 11, 13, 16-18:**

Malecki does not disclose an endless loop of resiliently stretchable material having a desired thickness and size; said jaws each have a post extending from an end of said jaws, said posts configured to be inserted with in one of said endless loops when said endless loops are placed upon said device, and to stretch said loops when said base portion its advanced along said holding rail; said device further comprises a lever connected to said base portion by a pivot pin whereby said lever advances said base portion along said holding rail when said lever is moved in a generally downward direction from said holding rail; said lever further comprises a second pivot portion, said second pivot portion configured for connection with a brace arm, said brace arm having a first end pivotally connected to said holding rail and a second end pivotally connected

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to said lever; said holding rail is configured to have a handle at a first end and a portion configured to grasp an endless loop at the other end.

Moose teaches an endless loop of resiliently stretchable material having a desired thickness and size; said jaws each have a post extending from an end of said jaws, said posts configured to be inserted with in one of said endless loops when said endless loops are placed upon said device, and to stretch said loops when said base portion its advanced along said holding rail (Fig 3 Item 12 and 70); said device further comprises a lever (Fig 3 Item 14) connected to said base portion by a pivot pin (Fig 3 Item 18) whereby said lever advances said base portion along said holding rail when said lever is moved in a generally downward direction from said holding rail; said lever further comprises a second pivot portion, said second pivot portion configured for connection with a brace arm, said brace arm having a first end pivotally connected to said holding rail and a second end pivotally connected to said lever (Fig 3 Item 44); said holding rail is configured to have a handle at a first end (Fig 3 the portion ending at Item 48) and a portion configured to grasp an endless loop at the other end (Fig 3 Item 72). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Malecki's jaw device to include Moose's lever, posts, and loop. Such a modification would allow for the expansion of the loop member via the posts, and provides a mechanical advantage by means of the lever. The loop can be placed around an extremity. The brace arm connects the lever to the holding rail so that the system can function properly.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Neal whose telephone number is (571) 272-0625. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TJN

  
**ANHTUAN T. NGUYEN**  
**SUPERVISORY PATENT EXAMINER**  
*8/7/06*